

**TITLE 37
INSURANCE
PART XI CHAPTER 27: EMERGENCY RULE 15**

**SUSPENSION OF CERTAIN STATUTES AND REGULATIONS
REGARDING CANCELLATIONS, NON-RENEWALS,
REINSTATEMENTS, PREMIUM PAYMENTS, CLAIM FILINGS
AND RELATED PROVISIONS REGARDING
ANY AND ALL INSURANCE MATTERS AFFECTING INSURED IN
LOUISIANA CAUSED BY HURRICANE KATRINA**

**TO: All Insurers, HMOs, Surplus Lines and any and all other entities
doing business in Louisiana and/or regulated by the Commissioner of
Insurance and the Louisiana Department of Insurance**

Emergency Rule 15 is issued pursuant to the plenary authority of the Commissioner of Insurance for the State of Louisiana, including, but not limited to, the following: Proclamation No. 48 KBB 2005 issued on August 26, 2005 by Governor Kathleen Babineaux Blanco declaring a State of Emergency; Executive Order No. KBB 2005 - 40 issued September 19, 2005 by Governor Kathleen Babineaux Blanco transferring authority over any and all insurance matters to Commissioner of Insurance J. Robert Wooley (Commissioner); LSA R.S. 29:724; LSA R.S. 29:766; LSA R.S. 22:2; LSA R.S. 22:3; LSA R.S. 22:1214.(7), (12) and (14); LSA R.S. 49:950 et seq.

On August 26, 2005, Governor Kathleen Babineaux Blanco declared the existence of a State of Emergency within the state of Louisiana caused by Hurricane Katrina. This State of Emergency extends from Friday, August 26, 2005 through Sunday, September 25, 2005.

Thousands of Louisiana citizens have suffered damages due to Hurricane Katrina. In some places, it could be months before electricity is restored. The homes of many Louisiana citizens were destroyed precluding habitation and the delivery of mail. This disruption has affected the ability of these citizens to pay their insurance premiums, access their insurance policies, and communicate with insurance agents and their respective insurance companies for insurance related matters. Hurricane Katrina has created a mass disruption to the normalcy previously enjoyed by Louisianians and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens.

The Commissioner will be hindered in the proper performance of the duties and responsibilities regarding this State of Emergency without the authority to suspend

certain statutes in the Louisiana Insurance Code and the rules and regulations that implement the Louisiana Insurance Code including, but not limited to, cancellation, nonrenewal, reinstatement, premium payment and claim filings with regard to any and all types of insurance subject to the Louisiana Insurance Code.

In light of this, Emergency Rule 15 is issued and shall apply to all insurers, HMOs, health and accident insurers, property and casualty insurers, surplus lines insurers and any and all other entities doing business in Louisiana and/or regulated by the Commissioner, including any entity enumerated in Emergency Rule 17, regarding any and all types of insurance, including, but not limited to, flood insurance, homeowners insurance, life insurance, health and accident insurance, limited benefit insurance, vehicle insurance, liability insurance, workers' compensation insurance, burglary and forgery insurance, glass insurance, fidelity and surety insurance, title insurance, fire and extended coverage insurance, steam boiler and sprinkler leakage insurance, crop and livestock insurance, marine and transportation insurance, credit life, medical supplement insurance, credit property and casualty insurance, annuity insurance, HMOs, professional and medical malpractice liability insurance, property and casualty insurance, all surplus lines insurance, self insurance funds, reciprocal insurance and any and all other insurance related entities licensed by the Commissioner or doing business in Louisiana.

Emergency Rule 15 is applicable to insureds, as defined in Section 15.1, from the following seven (7) primary parishes: **Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, and Washington**. Emergency Rule 15 is also applicable to insureds, as defined in Section 15.1, from the following seven (7) secondary parishes: **Lafourche, Livingston, St. Charles, St. James, St. John the Baptist, St. Mary and Terrebonne**. The zip codes applicable to these seven (7) primary parishes include, but may not be limited to, the list identified as "Hurricane Katrina Seven Primary Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at www.lds.state.la.us. The zip codes applicable to the seven (7) secondary parishes include, but may not be limited to, the list identified as "Hurricane Katrina Seven Secondary Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at www.lds.state.la.us. Insureds shall include, but not be limited to, any and all policyholders, members, subscribers and certificate holders.

In the ordinary course of business, insurers, HMOs, health and accident insurers, property and casualty insurers, surplus lines insurers and any and all other entities doing business in Louisiana and/or regulated by the Commissioner and other entities send notices to insureds, many of which are required by statute, giving the insured certain limited periods of time within which to pay premiums or otherwise respond. Hurricane Katrina and its aftermath have produced a disruption in the notification process because of the inability of insureds to receive mail due to mandatory evacuations and/or the destruction of their homes. Thus, many of Hurricane Katrina's victims are currently unable to timely act or respond to such notices or to pay insurance premiums and need additional time within which to act or respond. Some insurers, HMOs, health and accident insurers, property and casualty insurers, surplus lines insurers and any and all other entities doing business in Louisiana and/or regulated by the Commissioner and other entities may attempt to

cancel, nonrenew or not reinstate such insurance policies. Additionally, some insureds with policies in force as of 12:01 a.m. on August 26, 2005, who wish to make timely payment, are also prevented from making such payment because of the aforementioned circumstances. This could result in an insured being without coverage and/or potentially uninsured. Emergency Rule 15 provides emergency relief to the insureds of Louisiana affected by Hurricane Katrina and its aftermath so that they will be insured and their coverage will continue under those policies that were in effect as of 12:01 a.m. on August 26, 2005.

Accordingly, IT IS HEREBY ORDERED:

15.1 The benefits, entitlements and protections of Emergency Rule 15 shall be applicable to insureds who, as of 12:01 a.m. on August 26, 2005 had a policy or contract for any of the types of insurance enumerated in Section 15.2, and meet one of the following criteria:

- A. Any person who, as of August 26, 2005, resided in one of the following seven (7) primary parishes: Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa and Washington. The zip code for these seven (7) primary parishes is on the list identified as "Hurricane Katrina Seven Primary Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at www.ldi.state.la.us.
- B. Any person whose primary place of employment was in, or whose permanent employer had assigned said person to a business located in, one of the seven (7) primary parishes enumerated in Section 15.1.A shall be eligible to be defined as an insured if said person verifies such employment status by written documentation to his insurer. No insurer shall unreasonably withhold eligibility to an insured upon receipt of such written documentation.
- C. Any person who, as of August 26, 2005, resided in one of the following seven (7) secondary parishes: Lafourche, Livingston, St. Charles, St. James, St. John the Baptist, St. Mary and Terrebonne. However any such person shall only be eligible to be defined as an insured if said person obtains written documentation from either the Chief Executive Officer of the applicable parish of the person or the United States Postal Service that said person incurred an interruption of mail service after August 26, 2005. The zip code for these seven (7) secondary parishes is on the list identified as "Hurricane Katrina Seven Secondary Parish Zip Code List" found on the official Louisiana Department of Insurance internet Web site at www.ldi.state.la.us.
- D. Nothing in Emergency Rule 15 shall preclude an insurer from voluntarily applying the provisions of Emergency Rule 17 relating to cancellation, nonrenewal and nonreinstatement to any other person who is

an insured and who resides in any parish other than the parishes set forth in Section 15.1.A or 15.1.C.

- 15.2 Emergency Rule 15 shall apply to any and all types of insurance, including, but not limited to, flood insurance, homeowners insurance, life insurance, health and accident insurance, limited benefit insurance, vehicle insurance, liability insurance, workers' compensation insurance, burglary and forgery insurance, glass insurance, fidelity and surety insurance, title insurance, fire and extended coverage insurance, steam boiler and sprinkler leakage insurance, crop and livestock insurance, marine and transportation insurance, credit life, medical supplement insurance, credit property and casualty insurance, annuity insurance, HMOs, professional and medical malpractice liability insurance, property and casualty insurance, all surplus lines insurance, self insurance funds, disability insurance, reciprocal insurance and any and all other insurance related entities licensed by the Commissioner or doing business in Louisiana.
- 15.3 Any statutory or regulatory provision, or any policy provision contained in any and all policies of insurance set forth in Section 15.2 above, shall be suspended to the extent that said statutory or regulatory provision, or policy provision, imposed upon an insured a time limit to perform any act or transmit information or funds with respect to any insurance enumerated in Section 15.2 above, which act or transmittal was to have been performed on or after 12:01 AM on August 26, 2005. The time limit for any such performance, act or transmittal shall be suspended during the term of the present State of Emergency, and any subsequent State of Emergency declared thereafter, with regard to Hurricane Katrina or its aftermath.
- 15.4. Emergency Rule 15 hereby suspends any notice of cancellation, notice of nonrenewal, nonreinstatement or any other notice related to any of the types of insurance enumerated in Section 15.2 that was in force and effect at 12:01 a.m. on August 26, 2005, and any such action shall be null and void and have no force or effect. Furthermore, any such notice shall be reissued *de novo* to the insured in accordance with existing statutory requirements after the expiration of the present State of Emergency, or any subsequent State of Emergency, related to Hurricane Katrina or its aftermath has been lifted by Governor Kathleen Babineaux Blanco.
- 15.5 Any and all provisions in the Louisiana Insurance Code relative to providing for a premium finance company to act on behalf of and/or as agent for an insurance company are hereby suspended. In furtherance thereof, the right, entitlement, legal provision or any other form of legal authority, including any policy provision, of any and all insurers to send a notice of cancellation is suspended effective 12:01 a.m. on August 26, 2005 and shall remain suspended during the State of Emergency related to Hurricane Katrina and its aftermath. Emergency Rule 15 hereby suspends the right of any insurer to utilize the services of a premium finance company to issue any such notice to any insured.

- 15.6 No policy shall be cancelled or nonrenewed solely because of a claim resulting from Hurricane Katrina or its aftermath.
- 15.7 Except as provided for in Section 15.13, the cancellation of any and all types of insurance enumerated in Section 15.2, including, but not limited to, flood insurance, homeowners insurance, life insurance, health and accident insurance, limited benefit insurance, vehicle insurance, liability insurance, workers' compensation insurance, burglary and forgery insurance, glass insurance, fidelity and surety insurance, title insurance, fire and extended coverage insurance, steam boiler and sprinkler leakage insurance, crop and livestock insurance, marine and transportation insurance, credit life, medical supplement insurance, credit property and casualty insurance, annuity insurance, HMOs, professional and medical malpractice liability insurance, property and casualty insurance, all surplus lines insurance, self insurance funds, disability insurance, reciprocal insurance and any and all other insurance related entities licensed by the Commissioner or doing business in Louisiana, is hereby suspended and shall not be allowed until the State of Emergency declared by Governor Kathleen Babineaux Blanco with regard to Hurricane Katrina or its aftermath has been lifted.
- 15.8 A. Except as provided for in Section 15.13 the nonrenewal or nonreinstatement of any and all types of insurance enumerated in Section 15.2 herein and in Emergency Rule 17.2, including any and all other insurance licensed by the Commissioner, or doing business in Louisiana, that was in effect at 12:01 a.m. on August 26, 2005 is hereby suspended and shall be deferred until January 1, 2006.
- B. Any rate increase that may be applicable to any and all types of insurance enumerated in Section 15.2 herein and in Emergency Rule 17.2, including any and all other insurance licensed by the Commissioner, or doing business in Louisiana, that was in effect at 12:01 a.m. on August 26, 2005 shall be deferred until January 1, 2006, and said insurance shall continue in full force and effect until January 1, 2006 at the previously established premium.
- 15.9 If an insured requests from his insurer a copy of the policy the insurer shall provide a copy of the requested policy to the insured without any charge or fee.
- 15.10 The provisions of Emergency Rule 15 shall not apply to any new policies of insurance for the types of insurance enumerated in Emergency Rule 15 if said insurance policy was issued on or after 12:01 a.m. August 26, 2005.
- 15.11 Emergency Rule 15 shall not affect the right of any insurer to implement a new rate or premium for any policy of insurance enumerated in Section 15.3 if the new rate or premium had been approved for implementation by the Commissioner on

or before July 31, 2005, or if the insurer had mailed to the insurer the notice of the new rate or premium on or before July 31, 2005.

- 15.12 All insurers regulated by Emergency Rule 15, including, but not limited to, property and casualty insurers, surplus lines insurers and any and all other entities doing business in Louisiana and/or regulated by the Commissioner and other similar or related entities receiving a claim from an insured owing a premium may offset the premium that is owed by the insured from any claim payment made to the insured under the policy. Section 15.13 is not applicable to health insurance issuers, HMOs, PPOs, MCOs, TPAs or any other health insurance entities doing business in Louisiana and/or regulated by the Commissioner.
- 15.13 A cancellation shall not occur prior to the expiration of the State of Emergency or any subsequent State of Emergency related to Hurricane Katrina and its aftermath, unless upon the documented written request or written concurrence of the insured.
- 15.14 Unless otherwise cancelled pursuant to the provisions of Section 15.13 herein, nothing in Emergency Rule 15 shall be construed to exempt or excuse an insured from the obligation to pay the premiums otherwise due for actual insurance coverage provided.
- 15.15 Emergency Rule 15 shall not prevent an insurer from canceling or terminating a policy of insurance for fraud or material misrepresentation on the part of the insured.
- 15.16 Emergency Rule 15 shall not relieve an insured who has a claim caused by Hurricane Katrina or its aftermath from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to the claim.
- 15.17 The right of an insurer to impose or levy any interest, penalty, fee or other charge is hereby suspended until the present State of Emergency, or any subsequent State of Emergency, related to Hurricane Katrina or its aftermath has been lifted by Governor Kathleen Babineaux Blanco.
- 15.18 Notwithstanding any other provision contained herein, the Commissioner may exempt any insurer from compliance with Emergency Rule 15 upon the written request by the insurer if the Commissioner determines that compliance with Emergency Rule 15 may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency.
- 15.19 The provisions of Emergency Rule 15 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer protection for the insureds of Louisiana.

- 15.20 The Commissioner retains the sole authority to enforce violations of Emergency Rule 15. Accordingly, any insurer enumerated in Emergency Rule 15 or other entity doing business in Louisiana and/or regulated by the Commissioner who violates any provision of Emergency Rule 15 shall be subject to prosecution by the Commissioner under any applicable provisions of the Louisiana Insurance Code, including the provisions of the LSA R.S. 22:250.41, et seq., 22:1211, et seq., and specifically including, but not limited to, LSA R.S. 22:1214(7), (12) and (14). Additionally, the penalty provisions set forth in LSA R.S. 22:1217 shall be applicable. These provisions include penalties of \$1,000.00 for each separate act, or \$25,000.00 for each separate act if the violator knew or reasonably should have known he was in violation of Emergency Rule 15, as well as a cease and desist order and the imposition of other penalties and suspension or revocation of the license. Additionally, LSA R.S. 22:1220, which, among other things, imposes the obligation of good faith and fair dealing shall also be subject to the sole enforcement authority of the Commissioner. This law sets forth penalties and exemplary damages which shall be enforceable by the Commissioner for any violation of Emergency Rule 15. Finally, the Commissioner reserves the sole right to make the determination regarding whether any violator shall be subject to any and all other applicable civil and criminal sanctions for violations of Emergency Rule 15.
- 15.21 The Commissioner reserves the right to amend, modify, alter or rescind all or any portions of Emergency Rule 15.
- 15.22 If any section or provision of Emergency Rule that is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 15, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.
- 15.23 Emergency Rule 15 shall become effective at 12:01 a.m. on August 26, 2005 and shall continue in full force and effect for the duration of the present State of Emergency proclaimed by Governor Kathleen Babineaux Blanco, or any subsequent State of Emergency proclamation made thereafter.

Baton Rouge, Louisiana, this 20th day of September, 2005.

J. Robert Wooley
Commissioner of Insurance